



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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EMS TRANSMISSION 9/26/05
Instruction Memorandum No. AZ-2005-041
Expires: When Cancelled or Superseded

To: All Employees

From: Deputy State Director, Business and Support Services

Subject: *Touhy* Requests

Purpose: The purpose of this Instruction Memorandum (IM) is to provide procedures to follow when served with a subpoena to testify in a court case in which the United States is not a party, or when served with a "Subpoena Duces Tecum" court order to produce records for litigation in which the United States is not a party. These are referred to as "*Touhy* Requests" (pronounced "Too-ee").

Background: Department of the Interior (DOI) regulations for these types of subpoenas for employee testimony and production of records are contained in the Code of Federal Regulations (CFR) at 43 CFR Part 2, Subpart H. The regulations explain in detail the requirements for submitting a subpoena with a letter that contains specific *Touhy* Request information (see 43 CFR § 2.84). These requirements do not apply to congressional proceedings or to Federal court civil proceedings in which the United States is a party. They also do not apply to criminal cases before Federal, State, and Tribal courts where Bureau of Land Management (BLM) employees and records are involved.

Policy/Action: All employees should be aware of the regulations at 43 CFR § 2.80. Any *Touhy* Requests, or subpoenas as explained above, received in BLM offices in Arizona must be processed through the State Records Administrator/FOIA Officer. The State Records Administrator/FOIA Officer will review the document for compliance with the regulations, ensure that copies are distributed in compliance with the regulations, obtain a recommendation from the management official affected by the request, and consult with the Field Solicitor's Office. The resulting decision will be documented in a written response to be signed by the State Director. Following consultation with the Solicitor, only the State Director can grant or deny permission to comply with a *Touhy* Request and the related subpoena.

Time Frame: This policy is effective immediately.

Manual Sections Affected: BLM Manual 1278 – External Access to BLM Information.

Contact: For questions or further information, please contact Toni Klimek, State Records Administrator/FOIA Officer, at (602) 417-9364.

Signed by: Bonnie Hogan
DSD, Business & Support Services

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